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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

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7 WENDELL DWAYNE O'NEAL,

Case No. 2:17-cv-03025-JAD-CWH

8 Plaintiff,

9 **ORDER**

v.

10 TERRI ALBERTSON, et al.,

11 Defendants.

13 The court entered a report and recommendation that pro se plaintiff Wendell Dwayne
14 O'Neal's application to proceed *in forma pauperis* be denied and that his case be dismissed
15 because he was declared a vexatious litigant in another case in this district. (Report &
16 Recommendation (ECF No. 6).) After that, the United States Court of Appeals for the Ninth
17 Circuit vacated the district court's order to the extent it declared O'Neal to be a vexatious litigant.
18 (Memo. of USCA (ECF No. 179) in *O'Neal v. Empire Fire & Marine Ins. Co.*, No. 2:16-cv-
19 02313-JCM-CWH.) Accordingly, the court vacates its report and recommendation (ECF No. 6).

20 The court will address O'Neal's pending application to proceed *in forma pauperis* (ECF
21 No. 1) in due course. When the court addresses the application to proceed *in forma pauperis*, it
22 also will screen the complaint as required by 28 U.S.C. § 1915(e)(2). The court addresses all
23 applications to proceed *in forma pauperis* in the order they are filed and will prioritize O'Neal's
24 application based on its original filing date of December 8, 2017. While the court strives to
25 resolve all matters as expeditiously as possible, given the court's current caseload, as well as the
26 fact that all criminal matters must be addressed before all civil matters as liberty interests are at
27 stake, the screening process is lengthy. Given that his complaint has not yet been screened and
28 service has not been ordered, O'Neal's motion to file electronically is premature. The court will

1 deny the motion without prejudice for O'Neal to reinstate the motion after the court enters its
2 screening order.

3 IT IS THEREFORE ORDERED that the court's report and recommendation (ECF No. 6)
4 is VACATED.

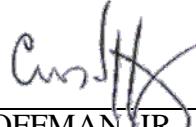
5 IT IS FURTHER ORDERED that O'Neal's motion for leave to file electronically (ECF
6 No. 5) is DENIED without prejudice.

7 IT IS FURTHER ORDERED that O'Neal's "motion for notice Ninth Circuit vacated
8 vexatious litigant" (ECF No. 9) is DENIED as moot.

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10 DATED: August 28, 2018

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12 
C.W. HOFFMAN, JR.
UNITED STATES MAGISTRATE JUDGE

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